



Chapter 2 In-Lieu Fee– Section 18.37.050

I. Introduction

This attachment to the Guidelines provides more information on Inclusionary In-Lieu Fees. An In-Lieu Fee is required when the calculation of the inclusionary obligation results in a fraction of an Inclusionary Unit; when the developer pursues an Alternative Compliance Option (see below); or when the development consists of fewer than five (5) dwelling units.

The In-Lieu Fee is calculated by multiplying the number of required Inclusionary Units, or the fraction thereof, by the In-Lieu Fee; e.g. if the inclusionary obligation is .6 Inclusionary Units, the required payment will be .6 times the current For-Sale In-Lieu Fee as published by the City.

If the In-Lieu Fee payment is provided as an Alternative Compliance Option pursuant to Section 18.37.080 of the East Palo Alto Municipal Code, the total obligation will be calculated as follows: twenty-five percent (25%) times the total number of dwelling units in the Residential Development times the relevant In-Lieu Fee.

The In-Lieu Fee shall be included as part of the annual fee schedule adopted by City Council during the annual budget process.

II. In-Lieu Fee Calculation – Ownership/For-Sale

The Ownership/For-Sale In-Lieu Fee is intended to approximate the gap needed to assist a homebuyer at a target income level to purchase a market-rate home at an affordable housing cost. It is calculated as the difference between (a) the affordable sales price, as defined in Section 18.37.020 (C) of the East Palo Alto Municipal Code, for a household size of 2.5 earning no more than 100% of the Area Median Income (AMI) and (b) the median sales price of market-rate condominium units in San Mateo County over the past 36 months.

The adopted In-Lieu Fee may also include the estimated costs of administration and the estimated cost of increases in the price of housing and construction from the time of payment of the In-Lieu Fee to the estimated time of provision of the affordable dwelling units by the City. The For-Sale In-Lieu Fee will be updated on an annual basis by the Housing Division and published on the City of East Palo Alto website.

The summary of the 2020 Ownership/For-Sale In-Lieu Fee Calculation is shown in Chapter 2A, Calculation of Ownership/For-Sale In-Lieu Fee. Please see the memo in Chapter 2C for a detailed analysis and explanation of methodology from David Rosen & Associates.

III. In-Lieu Fee Calculation – Rental



The Rental In-Lieu Fee is calculated as the financing gap required to build Inclusionary Units using 4% Low Income Housing Tax Credits (LIHTC or tax credits) assuming a blended affordability of 25% of the units affordable to households at or below 35% AMI, 50% of the units affordable to households at or below 50% of AMI, and the remaining 25% of the units at or below 60% AMI. This reflects the requirement in Section 18.37.050(2) of the East Palo Alto Municipal Code.

The adopted In-Lieu Fee may also include the estimated costs of administration and the estimated cost of increases in the price of housing and construction from the time of payment of the In-Lieu fee to the estimated time of provision of the affordable dwelling units by the City.

To update the In-Lieu Fee each year, the Housing Division will use the change in the Northern California Real Estate Construction Report published by the Real Estate Research Council of Southern California at California State Polytechnic University, Pomona. The change in the In-Lieu Fee shall be adjusted based upon the percentage difference in the new home prices in San Mateo County published in the fourth quarter for the then current year from the immediately preceding year as published in the Northern California Real Estate Construction Report.

The summary of the 2020 Rental In-Lieu Fee Calculation is shown in Chapter 2B- Calculation of Rental In-Lieu Fee. Please see the memo in Chapter 2C for a detailed analysis and explanation of methodology from David Rosen & Associates.

IV. Inclusionary Housing Plan Application

As part of the application for First Approval of any Residential Development, Developers are required to submit a signed Inclusionary Housing Plan application to the City and pay the application processing fee. The Inclusionary Housing Plan is processed concurrently with all other permits and must be submitted and accepted by the Housing Division two weeks prior to scheduling of an entitlement hearing.

No application for a First Approval shall be deemed complete until the Inclusionary Housing Plan is submitted by the Developer and accepted by the Housing Division, and no First Approval shall be granted until the Inclusionary Housing Plan is approved by the Planning Commission.

The Inclusionary Housing Plan provides basic information on the project and outlines how the Residential Development will comply with the Inclusionary Housing Ordinance. At a minimum, it includes the following:

- a. Project name, address, and APN
- b. Type of development (for-sale or rental/mixed use or residential/rehab, demolition, or conversion)
- c. Number of dwelling units in the development
- d. Location of the dwelling units in the development
- e. Any exemption sought, along with the requisite supporting documentation



- f. Compliance option (on-site, unless alternative compliance option sought)
- g. Any alternative compliance options sought, along with the requisite supporting documentation
- h. Any density bonus or other regulatory incentives requested
- i. A description of the developer's Fair Housing and Marketing plan, which must comply with all applicable fair housing laws and not discriminate in the sale or rental of Inclusionary Units on the basis of race, national origin, color, religion, gender, disability, familial status, age, income source, or marital status.

The Inclusionary Housing Plan application can be found in Chapter 1 and is provided on the City's website.

Minor changes may be made to the Inclusionary Housing Plan with approval by the City Manager prior to the issuance of any Building Permit.

The Housing Division shall charge a processing fee associated with the Inclusionary Housing Plan and the fee amount, once established, shall be stated in the Inclusionary Housing Plan application and updated from time to time.

Developers who are requesting City Council approval of the In-Lieu Fee Alternative Compliance Option must indicate that on the Inclusionary Housing Plan, along with the following information:

- 1) General information about the Developer and the Residential Development;
- 2) Whether the Developer intends to seek a parcel, or tentative, and final map for the project;
- 3) Affirming that the Developer intends to pay an In-Lieu Fee;
- 4) The total number of dwelling units, dwelling unit type, number of bedrooms and bathrooms, approximate location, size and design, construction completion schedule for all development phases of the Residential Development;
- 5) Whether the Developer, or any affiliate, owns, has an interest in, or controls any property contiguous to the project; and
- 6) Any other information, including a detailed narrative that facilitates the Housing Department's ability to evaluate the project's compliance with the Ordinance and Guidelines.

V. Timing of In-Lieu Fee Payment

The City shall not issue a Building permit for any market-rate dwelling units in the Residential Development until all In-Lieu Fees have been paid to the City. Prior to recordation of any final or parcel map for a Residential Development, notice of this requirement shall be recorded against each lot in the subdivision.

VI. Notice to Purchasers of For-Sale Inclusionary Units



The Developer shall provide specific written notice to any purchaser of any dwelling unit in the Residential Development prior to acceptance of any offer to purchase, and shall obtain executed acknowledgement of the receipt of such notice, that the purchaser shall not have the right to occupy the dwelling unit until all In-Lieu Fees are paid to the City.

VII. Method of Calculating Ownership/For-Sale In-Lieu Fee

See Chapter 2A, Calculation of Ownership/For-Sale In-Lieu Fee.

VIII. Method of Calculating Rental In-Lieu Fee

See Chapter 2B, Calculation of Rental In-Lieu Fee.

IX. In-Lieu Fee Study

See Chapter 2C, David Rosen & Associates In-Lieu Fee Study